

STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
PROPOSED ERGONOMIC RULE HEARING

DATE: January 11, 2000
TIME: 6:00 p.m.
PLACE: 100 Columbia Street
Vancouver, Washington

Hearings Officers: Selwyn Walters and Gail Hughes

COURT REPORTER: JULIE C. RABE, CSR

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PROCEEDINGS

MR. WALTERS: Good evening once again. My name is Selwyn Walters, and I'm the rules coordinator for the Department of Labor and Industries. With me is Gail Hughes, and she is senior official with the Industrial Safety and Health program for the agency. I now call this hearing to order, and the time is 6:58 p.m. We represent Gary Moore, the director of L&I.

For the record, this hearing is being held in Vancouver, and the date is January 11th. The hearing is being conducted pursuant to the Industrial Safety and Health Act, as well as the Administrative Procedure Act. Once the formal hearing is closed, I'd like to remind you that staff will be around to answer any questions that you may have. I'd like to remind you that you if you have not already done so, please fill out the sign-in sheet at the back of the room. We use this sheet to call you forward, and the law also requires that we inform you about this evening's proceedings. We'll be able to send you a report on this evening's hearing.

For those of you who have written comments that you would like submitted into the record, please give them to either Jenny, Josh, or Jeff at the back. We will accept written comments until 5:00 p.m. on February 14th, 2000. You can mail your comments to WISHA Services, P.O. Box 44620, Olympia, and the ZIP is 98504. You may also e-mail your comments to us at Ergorule, that's e-r-g-o-r-u-l-e@L&I.wa.gov. You may also fax

1 your comments to us at (360)902-5529. You should keep your fax
2 comments to about ten pages.

3 The court reporter for this hearing is Julie Rabe of
4 Rider and Associates, and you can obtain transcripts from Rider
5 and Associates by contacting them directly. All copies of
6 transcripts will be available on the WISHA home page. Now,
7 this home page is not presently set up, but it will be in about
8 three weeks. The address is www.L&I.wa.gov/WISHA/ergo. I'd
9 like to remind you that any request for copies of written
10 transcripts submitted to the department will be forwarded to
11 the court reporter. I'd like to also remind you that the court
12 reporter does charge for transcripts.

13 Notice of this hearing was published in the
14 Washington State Register on December 1st and December 15th of
15 1999. Hearing notices were also sent to interested parties.
16 In accordance with the Industrial Safety and Health Act, notice
17 was also published 30 or more days prior to this hearing in the
18 following newspapers: The Journal of Commerce, the Spokesman
19 Review, the Olympian, The Bellingham Herald, The Columbian, the
20 Yakima Herald Republic, and the Tacoma News Tribune.

21 The hearing is being held, today's hearing is being
22 held to receive oral and written testimony on the proposed
23 rules. Any comments received today, as well as written
24 comments received later, will be presented to the director. In
25 order to evaluate the potential economic impact of the proposed

1 rule on small business, the department completed a small
2 business economic impact statement in accordance with the
3 Regulatory Fairness Act. A copy of that statement is attached
4 to the materials at the back of the room, and it was also filed
5 with the rule itself.

6 For those of you who have already given testimony at
7 previous hearings, you will be called upon only after all new
8 testimony has been given, provided time permits. As you can
9 see, there are several people here to testify, so your oral
10 presentations should be limited to no more than ten minutes.
11 If time permits, we will allow for additional testimony to be
12 given after everyone has had the opportunity to speak. Please
13 keep in mind that we have allowed for a full month to receive
14 written comments, the cut off date being February 14th, 2000.

15 We would like to remind you that this is not an
16 adversarial hearing. There will be no cross-examination of the
17 speakers; however, we may ask clarifying questions. As I've
18 already stated, when all speakers on the hearing roster have
19 had the opportunity to present their testimony, we will provide
20 an opportunity for everyone who so desires to present
21 additional testimony. We may ask questions of those who
22 testify primarily for purposes of clarification.

23 In fairness to all parties, we ask your cooperation
24 by not applauding or verbally expressing your reaction to
25 testimony being presented. If we observe these few rules,

1 everyone will have the opportunity to present their testimony
2 and to help the director to consider all the points in making a
3 final decision.

4 We will call you in panels of three, and at this
5 time, we will take oral testimony. Please identify yourself,
6 spell your name, and identify who you represent for the record.

7 Marva Petty, Dave Klick, and Joan Schwarz. Ms.
8 Petty.

9 MS. PETTY: Good evening. My name is Marva Petty.
10 I'm a registered nurse, and I teach here in Vancouver at Clark
11 College. I teach nursing. I'm also a member of the Board of
12 Directors of the Washington State Nurses Association. The
13 Washington State Nurses Association is both a professional
14 association and also a union. We represent the health policy,
15 nursing practice, and workplace concerns of more than 11,000
16 registered nurses in Washington state. The majority of the
17 nurses work in hospitals, nursing homes, and home health
18 agencies.

19 I'm here tonight to testify on the behalf of the
20 Washington State Nurses Association in support of the new
21 ergonomics rules proposed by the Department of Labor &
22 Industries. I've been a nurse for over 25 years. I've been
23 very fortunate in that time that in lifting hundreds of
24 patients I have not suffered a significant back injury. I have
25 worked both in the intensive care units and on the surgical

1 nursing floors where there is a lot of lifting involved.

2 Unfortunately, I know many nurses and have employees
3 that have had a career-ending back injury or another type of
4 work-related musculoskeletal disorder. Back injuries and other
5 ergonomic injuries are the most common work-related injuries
6 suffered by nurses in all settings across the state, and
7 account for untold pain and suffering, hundreds of thousands of
8 dollars in medical costs, and thousands of hours of lost work
9 time.

10 Nationally, in all industries combined, approximately
11 8.5 out of 100 workers reported non-fatal occupational injuries
12 and illnesses. However, nearly 12 out of 100 nurses in
13 hospitals reported work-related injuries, and 17.3 out of 100
14 nurses working in nursing homes reported injuries. This is
15 nearly double the rate for all industries combined. The vast
16 majority of these nurse injuries are back injuries. Back
17 injuries are mostly caused by lifting unreasonable loads. Most
18 of the time, nurses lift patients manually.

19 For nurses, the most stressful activity is moving a
20 patient from the bed to a chair and back again. A national
21 institute states that a 51-pound, stable object with handles is
22 the maximum amount anyone should routinely lift.

23 Unfortunately, our patients are not stable objects with
24 handles. They are unpredictable human beings who do not always
25 cooperate when being transferred, and frequently their legs

1 will, in essence, drop out from under them leaving us to
2 support their entire weight.

3 Lifting the patients under the arms, which we do,
4 places excessive force on the lifter's spine, anywhere from 1.5
5 to two times the maximum acceptable load for human lifting.
6 Registered nurses and other nursing personnel, especially those
7 working in state hospital facilities, nursing homes, and home
8 health settings where assistive lifting devices and support
9 staff are often in short supply, are particularly vulnerable to
10 this type of injury.

11 WISHA's own statistics identify state hospital
12 facilities and nursing homes as among the top 20 employment
13 settings for incidents of back injuries in Washington state.
14 As the average age of the RN population continues to increase,
15 and right now it's about 45 years of age, and the acuity age
16 and physical needs of the patients we care for also increase,
17 these types of injuries are likely to become increasingly more
18 serious, more costly, and more difficult to treat.

19 Workers in Washington state are entitled to a safe
20 working environment. While some employers are currently taking
21 steps to prevent workplace injuries, such as providing lifting
22 teams, lifting devices, and frequent training, we need this
23 rule to ensure that all employers comply and address WMSD
24 hazards. WSNA believes that WISHA's proposed rule is a
25 much-needed step in the right direction, and that it is far

1 better than the proposed national OSHA standard in that it
2 takes a preventative approach to addressing the problems of
3 work-related musculoskeletal injuries, rather than levying
4 citations and fines after the fact, that is after the injury
5 occurs.

6 We believe that the phase-in period included in the
7 implementation plan is more than generous. It will allow the
8 development of what is truly needed, which is industry-wide
9 prevention programs that includes data-driven employer
10 guidelines and education to support compliance with the
11 proposed standards, standardized guidelines for lifting and
12 transferring patients, training for managers and health care
13 personnel on proper technique, use, and maintenance of
14 equipment, and access to the appropriate assistive devices.

15 Additionally, continued research that demonstrates
16 the effectiveness of such prevention programs and ongoing
17 evaluation of other strategies is needed. While some employers
18 may argue that it is unnecessary and costly to implement this
19 program, I would argue that it is more costly for the workers,
20 the state, and the citizens of Washington if we do not
21 implement this program. Nurses, those of us who care for the
22 most ill and fragile population, deserve the protection of this
23 most important ergonomic standard.

24 In conclusion, on behalf all of the registered nurses
25 in this state, I would like to commend the Department of Labor

1 & Industries for proposing this ergonomics rule. All workers
2 in Washington are entitled to a safe working environment.
3 Thank you for the opportunity to speak with you.

4 MR. WALTERS: Thank you. Mr. Klick.

5 MR. KLICK: My name is Dave Klick. I'm executive
6 vice president of the Northwest Food Processors Association.
7 We're a trade association. We have about over a hundred
8 manufacturing plants in the state of Washington. These are
9 various kinds of food processing and food manufacturing plants
10 that employ in excess of 22,000 employees in the state. Over
11 half of those employees are seasonal. That's one of our
12 concerns with the proposal; we have many. There's just many
13 questions. It's unfortunate we only got to ask one question,
14 because I have lots of questions.

15 There is really no provision for seasonal employees.
16 Some of these employees only work a matter of weeks in a year
17 for a given employer, up to maybe three months, even up to six
18 months, depending on the crops. They're seasonal crops. These
19 are, in many cases, migrant laborers that come into the state
20 of Washington and they move between employers. And they -- we
21 have the challenge of not only seasonal employment, but
22 seasonal exposure to hazards. We are highly committed as an
23 industry and individual employers to safe work sites, and we
24 try to exhibit good faith in that of providing a good
25 workplace.

1 But when employees come in and are only working for a
2 few weeks in a year -- and we don't know when they come into
3 work whether they're going work one hour or one day or a week
4 or a few weeks or something like that -- to impose a mandatory
5 requirement that goes beyond the current requirement for an
6 orientation program and to impose a rather extensive
7 orientation in the whole art of ergonomics seems to be
8 excessive and burdensome for the seasonal employees. So we
9 would recommended consideration given to something longer than
10 30 days.

11 Audiometric testing is an example of one where
12 agencies have taken a look at this for seasonal exposure. In
13 Oregon, for instance, the requirement is six months. So they
14 have to be employed with one employer for more than six months.
15 We have real questions. It says that if an employee is trained
16 in another establishment, that that can essentially carry
17 forward with the employee. But how do we really verify that
18 that is acceptable training? Who keeps the records if an
19 employee worked for someone else in the state or wherever?
20 When does it say that that is acceptable training?

21 So in addition to the training questions that we
22 have, we -- oh, and one point that I would like to say. I do
23 compliment the department. They recently -- in fact, I
24 received last Thursday a new proposal, a new initiative, that
25 the department has come out with called Safe at Work. It is a

1 voluntary effort that they are approaching unions and employers
2 and organizations, non-profit organizations, with funds that
3 have been approved by the legislature and are seeking voluntary
4 efforts in the area, and one of those areas is ergonomic
5 training. Our organization is looking at that to maybe develop
6 some kind of generic training that would be applicable to this,
7 and maybe in several languages, or at least multiple languages.
8 That's another of our challenges.

9 I still have questions about the caution zones. It
10 seems like in a manufacturing organization -- I've talked to
11 several plant managers -- that virtually all of the jobs in a
12 manufacturing operation at some point in time would or could
13 very well fall under a caution zone if there's any kind of
14 manual functions to them, whether they're bending more than 30
15 degrees or whatever the standard is. So that places quite an
16 extensive burden, I guess you would say, on the employer to all
17 of a sudden establish a mandatory to require of them.

18 I was really surprised to hear tonight that the cost
19 was an average of ten cents per employee per day. There's 220
20 working days in a year, so that means that we're talking about
21 \$22 per employee per year. If that truly is all the cost that
22 we'd be talking about, I don't think there would be one
23 employer here that would be concerned about that at all. But I
24 suspect -- my colleague here talking about improving nursing,
25 lifting, and I empathize with that significantly, but maybe the

1 solutions there require engineering controls. That's certainly
2 going to cost more than \$22 per employee. So if it's only a
3 hundred employees, we're talking a couple thousand dollars per
4 year per company, and that's not excessive.

5 But we have seen economic statements that put it into
6 the millions dollars. In a national statement for the National
7 Food Distributors, Inc., they have placed the cost on that one
8 industry, the grocery and food industry, at the national level,
9 at \$6 billion minimum. So this is more than the entire federal
10 OSHA estimate for nationwide impact. So there's a great
11 disparity in the economic analysis between both the state and
12 federal as to what is economically feasible.

13 Feasibility is a huge issue with industry, as
14 mentioned by the fellow from aluminum and other industries. We
15 would urge the state to take a look at the words, "good faith."
16 It's clearly defined in statute. What we're looking at is for
17 companies to exercise good faith in approaching the hazards to
18 reduce injuries in the area of ergonomics. It's interesting
19 that the accident rates are down, they're decreasing, they're
20 declining. In the opening comments, it mentioned that there is
21 a steady downward trend in the accident rates, but yet it is
22 not sufficient. I really question -- nowhere in the standard
23 does it say, "Okay. It's been insufficient. It needs to go
24 ten percent faster." Or it needs to go however much faster.

25 We need to determine what is acceptable, and I really

1 even question that. If the patient is getting better with the
2 treatment, and we're seeing that, a steady decrease. I recall
3 seeing something recently that accidents are at an all-time
4 low, so the voluntary efforts in ergonomics have been
5 succeeding. We have been working ergonomic programs and
6 controls for over 20 years in the food processing industry.
7 We've worked with the state. We've had several of the state
8 people talk at our conferences. I think that we can point to
9 some very good things.

10 But we don't see any real proof in this proposal that
11 it's going to work. If we spend the time and the money and the
12 effort on a mandatory program, is this really going to work?
13 And where you have generated a very long phase in period, there
14 is certainly time to do a pilot program. I would recommended
15 that as a part of the program would be to phase in and to show
16 employers that this really can work. To really have some proof
17 that a comprehensive program can work, rather just taking one
18 element of the program and testing that. Let's test the entire
19 proposal as presented in a pilot program. Thank you.

20 MS. HUGHES: I had a question. There were a couple
21 of references you made to some information. The one that you
22 talked about seeing something where accidents were at an
23 all-time low. Do you have the report?

24 MR. KLICK: I could certainly provide that. I
25 believe I just read it just the other day in one of the

1 publications. I'm not sure it was in this state, but it might
2 have been in Oregon.

3 MS. HUGHES: Okay. And prior to that, you mentioned
4 something about economic feasibility between what the federal
5 and the state --

6 MR. KLICK: Yes. And I do have a copy of that
7 economic analysis statement. I believe it went from somewhere
8 around \$5- to \$6 billion to \$29 billion for a single industry.
9 It was a \$100,000 study, and it was about 30 pages long.

10 MS. HUGHES: Could you provide that to the department
11 as part of the record?

12 MR. KLICK: I'd be happy to, yes.

13 MS. HUGHES: Thanks.

14 MR. WALTERS: Just so that you know, staff is
15 available and will be able after the hearing to answer all of
16 your questions, so don't leave here without your questions
17 being answered.

18 MR. KLICK: Oh, good. I thank you so much for that.

19 MR. WALTERS: Okay. Ms. Schwarz.

20 MS. SCHWARZ: My name is Joan Schwarz,
21 S-c-h-w-a-r-z, and I'm here representing myself. I was in the
22 food industry for 25 years. I never had an injury on any other
23 job I ever worked at until I worked there. Didn't happen there
24 for 11 years, until they decided that we were a machine and not
25 a human being and wanted us to produce and produce and produce.

1 So they brought in those wonderful, lovely scanners. Well, I
2 have had ten carpal tunnel surgeries as proof of how good they
3 are. I had 19 injuries, 19 surgeries in 25 years at Fred
4 Meyers, and it was only from 1982 until 1996 that they all
5 transpired, including a triple bypass. Of course, that's not
6 job-related, but I mean it happened. I think it was from
7 stress.

8 So I just thought that, you know, if there's anything
9 they can do to stop things like this from happening. But are
10 they really going follow through? Is big business really going
11 to take the time to worry about the little peon that's out
12 there busting his butt for him? Never did before. If you can
13 prove they will, I'm all for you. Okay? Thank you.

14 MR. WALTERS: Thank you. Thank you all for coming.
15 Kevin Storey, Michael Hansen, and Diane Hibbard. Mr. Storey.

16 MR. STOREY: Hi, my name is Kevin Storey, B & B Tile
17 and Masonry. We're a masonry subcontractor here in Vancouver.
18 I'm the fourth generation in the business. We've been in -- my
19 family's been in the masonry construction business since 1923
20 in the state of Washington. I'm concerned with this rule in
21 the fact that as a masonry subcontractor, we're one of the few
22 trades that you don't have to have to build a building. We're
23 also a heavy repetitive lifting industry. That's what we do.
24 We have to install heavy units as a trade.

25 This rule has a potential to completely eliminate us

1 as an industry, or to completely make us economically
2 unfeasible as an industry. I brought an example of a brick
3 we're installing right now. It weighs approximately ten
4 pounds. A person has to pick it up, one of our brick layers,
5 in one hand and install it. Typical brick laying. This brick
6 comes off a Washington State University Vancouver branch campus
7 building, so it's a state-owned, state-designed building. I
8 don't think this fits under the ergonomics standards you're
9 proposing right now. We have 50 thousand of these to lay.

10 We've talked about engineering things. It ought to
11 actually start as an employer, and it needs to start other
12 places as an industry. I think this rule needs to work farther
13 with the industries that they have identified as being high
14 risk, such as our industry, in looking at what we do and how to
15 ergonomically create a better workplace.

16 As an employer, in the last two years, we have spent
17 over \$500,000 on new scaffold systems to -- that we think are
18 better. They're ergonomically better. They're safer from
19 other safety standard points. It's a big investment on our
20 part. It does help some of the awkward stances, but it does
21 make some of the repetitions more. So a person is going to
22 install more material, is going to lift more weight. So in
23 some aspects it helps, some aspects it does not.

24 This rule, the time frame I think is helpful in the
25 ruling from the fact that there's going to be a couple years to

1 work with industries. I think maybe some of that should have
2 been more up front than after the rule's adopted and then
3 everyone's going to be scrambling to try and figure out what
4 they're going to do. I'm not against the rule and eliminating
5 the injuries.

6 We have our share of back problems and arm problems,
7 lifting problems, you know. We have seen those. That's one of
8 the problems we have. It's just that to be kind of mandated
9 seems like -- without any input into it -- seems to go against
10 the grain a little bit. I'm against it, I guess from that
11 standpoint, because I don't see a lot of input from our
12 industry. We're pretty involved in what's going on in the
13 state of Washington, particularly in this area, and I haven't
14 heard anything about it as far as anybody studying any input
15 from our industry. I lost my train of thought.

16 I guess I would like to see some further time frame
17 before the rule is adopted for the specific industries in order
18 to get some more input into the rule. I guess where I was
19 going, was that where you get into what is feasible under what
20 you can eliminate or what you can do in the workplace, and when
21 you get into the definition of feasibility and who's going to
22 make those determinations as to what you can do, I mean, are
23 you going to reduce the hours on the employees, you know, as
24 Brian from Team mentioned earlier? Are we going to have to
25 reduce employee hours so they can only do certain tasks for two

1 hours or four hours a day? That's going to raise our costs up
2 to where we won't be competitive.

3 There's just a lot of things there. I'm not really
4 against the rule, but I'm not really for the way it's coming
5 about right now. Thank you.

6 MR. WALTERS: Thank you. Did you intend to introduce
7 the block into evidence?

8 MR. STOREY: Oh, I just brought the block in. I
9 didn't know where I was going with it. Yeah, I mean block is
10 also -- we're laying block right now. Typical eight-inch CMU
11 block, they weigh approximately 32 pounds. You know, on a
12 typical building, you know, shopping center -- we just finished
13 a healthfood club here in Vancouver.

14 Person's going to lift 200 of those a day, a
15 bricklayer is, and he's going to have to grab it in one hand,
16 you know, between the thumb and the fingers, and install that.
17 It is hard. We are a very manual, very labor intensive
18 industry.

19 MR. WALTERS: So you're going to leave those with us?

20 MR. STOREY: We'll leave those with you, yes.

21 MR. WALTERS: Thank you. Michael Hansen.

22 MR. HANSEN: Didn't you tell me you wanted 75 cents
23 if you was going to leave them here? (Laughter.) Hi, My name
24 is Michael J. Hansen, H-a-n-s-e-n, and I'm here representing
25 myself, if you will. I have -- I know very, very little about

1 a lot of things, but I do know a lot about one thing. I've
2 been 32 years in the food group, and I would tell you and
3 suggest to you that our caution zone job is very much affecting
4 the grocery section. I heard Dr. Michael, he talked about
5 heavy, awkward lifting.

6 I can assure you that got a case of peaches, 29 and a
7 half ounces; there's 24 to a case. You cut off the top, you
8 bend over, you pick it up, you hold it up against the shelf and
9 you put it on the shelf four at a time. Now, that's fine to do
10 that. You're doing that. You're reaching. You're pulling.
11 You're down. You're up. You're doing all that kind of stuff.
12 In my business, there's two things that happen to you: You
13 either have carpal tunnel or you have back surgery. Now, in my
14 case, I opt for back surgery.

15 For some reason, this pulling across the scanner
16 doesn't affect me in the least, or hasn't as of yet. But I
17 would imagine someday it will if I keep it up. I would say to
18 you, too, that -- I should have started out by saying that I
19 applaud your efforts. I think we're on the right track. I
20 would also say to you this: We have safety committees in my
21 place of business that are a joke. They are absolutely a joke.
22 There is no such thing -- there is no repercussion. There's no
23 getting back to anybody about anything.

24 The safety committee goes like this: They meet down
25 in the lunch room. Somebody will say -- okay, they'll start

1 this. And then somebody will say, "Checker, please." And the
2 person that's on the safety committee will go and check for 20
3 minutes and the meeting goes on. I mean, it's absolutely
4 ludicrous, and I think the reason that they do this is because
5 it has something to do with their insurance. Now, I can't
6 prove that, but I believe that, because my company is
7 self-insured in a lot of respects, that they have these safety
8 meetings and everything's incorporated in it.

9 That's what I've been told. I may be off base on
10 that. But I can assure you that it's a joke. There's no such
11 thing. We've had incidents of back injuries, and we had a
12 person come over from the main office who walked through the
13 store and counted how many people were wearing one of these
14 belts. No, I don't want to submit this belt. His conclusion
15 was there was seven people that weren't wearing belts when he
16 walked through that day. And, again, there was no getting back
17 to the peons, that was just a note that they sent to the
18 management echelon.

19 So I guess it's easy to be a cry baby and complain.
20 I don't want to seem like that, but I have some very, very big
21 reservations. I have seen the company that I've been with for
22 32 years say time and time again we're going to do this, this,
23 this, and, in fact, have never probably ever followed through
24 on it.

25 Of course, I couldn't prove that either, but in ten

1 instances out of ten, they say we're going to do this, this,
2 this, and this is going to be a big deal, and nothing ever
3 comes from it. Enough said. Thank you very much.

4 MR. WALTERS: Thank you. Ms. Hibbard.

5 MS. HIBBARD: Diane Hibbard, H-i-b-b-a-r-d. I'm with
6 Service Employees 9288, and we are classified school employees,
7 custodians, cooks, bus drivers, et cetera. There's no doubt in
8 our minds that something like this is needed. In our
9 workplaces, we think that there is a possibility to be able to
10 reduce the injuries. The ones that I am most familiar with are
11 the custodians with high incidents of carpal tunnel, rotor
12 cuff, and lower back injuries. In one of the schools where I
13 am often, probably half of our custodians have been out with
14 L&I in the last two years. And of those, several of them have
15 had surgeries and are on some second rounds of surgeries.

16 There must be something that can be done here. I
17 will take some time to go over your rules and see what we can
18 learn from that, but we support this.

19 MR. WALTERS: Thank you very much. Thank you all for
20 coming. Carol Goodrich and Donald Nelson. Ms. Goodrich.

21 MS. GOODRICH: Thank you. I'm Carol Goodrich, and I
22 wish to commend you on your efforts for the proposed ergonomic
23 rules. I am a member of the Oregon Federation of Nurses and
24 Health Professionals. We represent 1300 RNs, dental
25 hygienists, technical people who work for Kaiser Permanente.

1 I'm currently the vice president for the dental practice unit.
2 I'm a registered dental hygienist, and have been employed by
3 Kaiser for 14 years. I practiced dental hygiene for five years
4 prior to going with Kaiser in private industry. Prior to that,
5 I worked 17 years as a dental assistant.

6 Dental hygienists are trained and educated to treat
7 diseases of the tissues surrounding to the teeth. We stand or
8 sit for long hours in awkward postures, bending over patients,
9 applying sometimes very, very heavy force to remove calculus
10 from patient's teeth. As a dental assistant, we hand
11 instruments to the dentists and mix materials, suctioning
12 patients, and often in really awkward positions trying to see
13 around dentist's head.

14 My interest in ergonomics began in 1988 when I
15 experienced my first of several musculoskeletal injuries. Upon
16 experiencing symptoms, I consulted my physician and was told
17 that I needed to quit doing what I was doing that exacerbated
18 the problem. What that meant was that I had to give up my
19 livelihood. I was the single mother of four pre-teen and
20 teenage children. I had seen other dental hygienists
21 experience these problems, and I saw many of them just quit
22 dental hygiene.

23 I proceeded to consult 15 different physicians within
24 about a two-month period of time, and got pretty much the same
25 type of results, that I needed to quit doing what I was doing.

1 Finally, I found a man who was willing to help me and support
2 me in working through the problems that I had. In 1991, I had
3 a second episode. This was about the time that our
4 organization decided to organize as a union. I saw the
5 benefits of writing some ergonomic language into our contract.

6 I wrote the ergonomic language that resulted in the
7 formation of a regional ergonomics committee for the dental
8 hygienists. The committee consists of several people from
9 management, people from purchasing, several dental hygienists,
10 and also a medical doctor who's our liaison to the medical
11 community. We began the committee by surveying dental
12 hygienists, and what we discovered from our hygienists is that
13 there were 83 percent of them that were working in pain.
14 Supporting literature showed that 69 percent of the dental
15 hygienists reporting reported work-related pain. There was
16 another study that was done at Lane County that indicated 59
17 percent of the dental hygienists were working in pain.

18 We discovered that the problems and the solutions are
19 extremely complicated. Not everything that you try works. It
20 is absolutely necessary to have a program that is systematic in
21 approach. I sat on the ergonomics, the regional ergonomics
22 committee for six years. We did a grant with the Oregon
23 Federation of Nurses and Health Professionals and Kaiser,
24 Oregon OSHA, and produced a manual that is designed to define
25 the problem and the solution. It's a very simple manual to

1 work with, and has been very beneficial for our group. We've
2 given training to our dental hygienists, and I've personally
3 given a continuing education class for dental professionals to
4 help them with these problems.

5 I don't know how you separate the hazards from the
6 person or the symptoms, and this was kind of what I was hearing
7 here, that you just identify the hazards. I don't know how
8 that can happen. My interest in ergonomics has become quite
9 well-known, and I receive calls from women all over the United
10 States who have heard about the things that I've done with
11 these problems who share their pain and their frustration with
12 the problems that they deal with in dental hygiene.

13 I have a number of things that I noted in going
14 through the rules, and I'd like to just give you some bullets
15 on what I have written down. I will send these also to L&I.
16 Under the synopsis of the proposed rule, you include
17 musculoskeletal problems such as tendinitis, carpal tunnel
18 syndrome, lower back disorders. Our problems are generally
19 located for the most part in the upper back and neck, so I
20 think that that statement may be a problem for our industry.

21 Ergonomics awareness training should be on an annual
22 basis rather than every three years. It's got to be something
23 that's ongoing all the time is what our experience is.
24 Awareness training should also include steps or methods for
25 reporting symptoms and injuries. I would say that the

1 employers must inform workers that the employer cannot
2 discriminate against them or sanction them for reporting.

3 The time lines for compliance, I think, are overly
4 generous. When you take into consideration the average life
5 expectancy for a dental hygienist in dental hygiene is around
6 seven years, that means that that by the time this program is
7 rolled out, all of the new dental hygienists that have come
8 into dental hygiene this year may not be practicing.

9 I believe that a written ergonomics program is
10 essential from the perspective of both the employer and the
11 employee. The program should outline all of the elements of
12 the standard, how the job analysis was preformed, the type and
13 extent of employee involvement in every step of the standard,
14 and the methods for reducing and/or eliminating injuries.
15 Without a detailed written program, how can an employer,
16 employee, and unions adequately evaluate the abatement methods
17 employed? Workers and their representatives should have access
18 to the written programs.

19 I also believe that there should be something done
20 with regard to medical management. My experience was that
21 doctors didn't understand what I did, how it could be so
22 stressful. In our program, it was extremely beneficial to have
23 a physician who would take that information back to the medical
24 community. As awareness increases among employees, you will
25 have medical claims. There's an increase in medical claims.

1 As people seek help from the medical community, you need to be
2 prepared for an increase in medical care. And what do you do
3 when there is polarization in the medical community with
4 physicians who do not acknowledge ergonomics issues?

5 The plan should include continuing education
6 requirement for the medical community. Medical management
7 should include treatment guidelines and basic information on
8 different industries. Symptoms surveys should be included in
9 the job analysis and the evaluation of abatement and
10 intervention.

11 The employers' review of the program is too vague.
12 In addition to symptoms survey of affected workers, the
13 employer should evaluate injury and illness data on OSHA logs,
14 on injury and illness, and the workers' complaint about caution
15 hazards. The review should also address any new technology or
16 changes in process in the impact on the workers, the risks.
17 The employer should also put their review in writing, and it
18 should be available to all the workers.

19 When you begin looking at ergonomic issues, you get
20 into touchy issues that fall under management concerns such as
21 shift length, rest periods. How would time off be evaluated by
22 an inspector? This standard should also have a medical removal
23 requirement for workers who report early symptoms, and
24 provisions for restructuring the job and/or equipment before
25 returning the worker to work. Workers should not face pay

1 reductions for being rotated out of a risky job.

2 One of the huge problems that we ran into was with
3 regard to the manufacture of equipment. How do you involve the
4 manufacture of equipment and require them to take
5 responsibility? We're in an industry where the purchaser of
6 the equipment is typically a six-foot-tall male. The equipment
7 is designed to suite the purchaser. What do you do when a
8 five-foot-tall dental hygienist is required to work on
9 equipment that is designed for a six-foot-tall male? What
10 happens if you cannot get to the root of the problem?

11 Employers' involvement is imperative to the success
12 of programs such as those proposed. Employee groups need to be
13 identified -- excuse me, employee involvement is imperative to
14 the success of the programs. Employee groups need to be
15 identified, and participation of all groups should be required.
16 With regard to our industry, Steve Hecker was here this
17 afternoon from the Labor Education and Research Center, and I
18 believe that he presented you with the manuals that I spoke
19 about that were done as the result of the OSHA grant. I'd like
20 to point you in that direction.

21 I believe that, you know, we've done -- I have a lot
22 of learning that we can share with our industry, and I think
23 that it should be rolled out on an industry-wide -- as an
24 industry-wide roll out, and even to a couple years I think that
25 could happen. Thank you.

1 MS. HUGHES: Thanks. You also mentioned in addition
2 to the manual that you just talked about again that you did a
3 survey.

4 MS. HIBBARD: Yeah. We've done numerous surveys.
5 The surveys were -- the one that I was referring to was early
6 on, it was in 1994. We have had dramatic improvements in the
7 numbers with the program that we have instituted.

8 MS. HUGHES: Is that something that you can make
9 available to us, the results of that survey?

10 MS. HIBBARD: I've got it written down. I'm going to
11 send it to you.

12 MS. HUGHES: Okay. And then you also talked about
13 supporting literature and another study.

14 MS. HIBBARD: I've done med-lines at the dental
15 school, and there's loads of information through the libraries
16 at the dental and medical schools that support the information
17 that I'm talking about, yes.

18 MS. HUGHES: Okay. So could you either provide us
19 with references to those or can you --

20 MS. HIBBARD: Yeah. I could redo -- yeah, I could
21 get some, yes.

22 MS. HUGHES: All right. Thanks.

23 MR. WALTERS: Thank you. Mr. Nelson.

24 MR. NELSON: My name is Donald Nelson, N-e-l-s-o-n.
25 I work for Boise Cascade Corporation, and I'm a member of local

1 293 AWPPW. I'm also a member of the central health and safety
2 committee at Boise Cascade. The facility I'm talking about is
3 right next door here; it's downtown. I just came here to talk
4 about my job and what we have done here in the last few months
5 to make it more difficult, I would say. I work on a printing
6 press, and we load rolls on and off the press and take care of
7 color matching and such things.

8 In the past, we've had enough people to do the work
9 where we only had to do about ten rolls per day or per shift.
10 To load one of those shafts that we're pulling, they were about
11 100, 140 pounds, depending on what kind of paper we're running.
12 Here in the last six or eight months, Boise Cascade has decided
13 that they would remove one of our workers at the location here
14 in Vancouver, and now we're doing 15 to 18 shafts per day that
15 we pull at 100 to 140 pounds apiece. I think this is setting
16 up a condition for a chronic problem in the future.

17 I know the second or third day of doing this, a lot
18 of the people that I work with had sore backs and are slowing
19 down quite a bit. I think this is past the caution zone and
20 almost into the danger zone. They had no requirement -- or
21 they seemed to -- when they put this in, there was no regard
22 for lifting limits until an injury occurs, and then they seem
23 to like to work on it after the fact. I really support these
24 guidelines. I'd like to see them in before injuries happen.
25 I'd like to see some teeth so people come out and take a look

1 at these things. We have an aging workforce here in
2 Washington, as across the United States, and we need these
3 kinds of guidelines. If we had these guidelines before,
4 management would not have doubled the workload in the back of
5 these machines where I work.

6 That's about all I've got to say about it.

7 MR. WALTERS: Great. Thank you both for coming. Is
8 there anyone else who would like to testify? Even if you
9 haven't signed up, you can come testify and sign up later, sign
10 up after.

11 Just state your name and spell your last name for us.

12 MR. KANOOTH: Ken Kanooth, K-a-n-o-o-t-h. I'm a
13 business rep for the carpenters union here in Vancouver. My
14 testimony will probably be one of the shortest you're going to
15 get. Basically, I'd just like to say that I'd like to sign
16 onto this proposal. Our industry is one that doesn't have a
17 lot of light duty, and sometimes light duty is prescribed by
18 doctors to seem to get along with insurance rates.

19 So the more we can do with safety prevention and job
20 descriptions that limit the dangers, the better off we'll be.
21 That's it.

22 MR. WALTERS: Thank you. Great. Sir, could you
23 please state your name?

24 MR. WELLS: Brian Wells with Team Construction,
25 W-e-l-l-s. I have a real concern for this proposed rule. I

1 guess it goes without saying, as I indicated earlier, that the
2 caution zone would really relate to the construction industry
3 as a whole. And as I read these -- for instance, "Awkward
4 position, working with the hands above the head or the elbow
5 above the shoulder for more than two hours total per work day."
6 That happens quite frequently. "Working with the neck, back,
7 or wrist bent more than 30 degrees for more than two hours
8 total per workday." "Squatting for a total of two hours per
9 workday, or kneeling for a total of two hours per workday."

10 These are all related to the construction industry.
11 "Repeating the same motion with the neck, shoulders, elbows,
12 wrist, or hands with little or no variation every few seconds
13 for more than two hours total per workday." "Lifting objects
14 weighing more than 75 pounds per workday, or 55 or more pounds
15 more than ten times per workday." "Lifting objects weighing
16 more than ten pounds if done more than twice per minute for
17 more than two hours per workday."

18 As I said, these are all -- this will have a huge
19 impact on the construction industry, and I believe that
20 additional studies need to be done related to the construction
21 industry in regards to this proposed rule. I would strongly
22 recommended the Department of L&I to let OSHA take the lead on
23 this rule, especially in the fact that's it's my understanding
24 that OSHA, federal OSHA, is going to exempt the construction
25 industry from their regulation. With that in mind, I'd like

1 the Department of L&I to also look at that until further
2 studies are done relating to the construction industry. Thank
3 you.

4 MR. WALTERS: Thank you. Thank you all for coming.
5 Is there anyone else who would like to testify?

6 Okay. I'd just like to remind you that the deadline
7 for receiving written comments is on the 14th of November,
8 2000, and we should get your comments by 5:00 p.m. I'd like to
9 thank all of you for coming today and for testifying. The
10 hearing is now adjourned at 7:54 p.m.

11 I would like to remind you that our staff is here,
12 and if you have any additional questions, please stick around
13 and they will gladly answer your questions.

14 I want to be clear, the deadline for the submission
15 is February 14th, 2000, at 5:00 p.m. Thank you.

16 (Hearing concluded at 7:54 p.m.)

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1 CERTIFICATE

2

3 STATE OF WASHINGTON)
4) ss.
5 County of Clark)

6 I, Julie C. Rabe a Notary Public for Washington,
7 certify that the Labor and Industries hearing on the proposed
8 ergonomic rule here occurred at the time and place set forth in
9 the caption hereof; that at said time and place I reported in
10 Stenotype all testimony adduced and other oral proceedings had
11 in the foregoing matter; that thereafter my notes were reduced
12 to typewriting under my direction; and the foregoing
13 transcript, pages 3 to 31 both inclusive, contains a full, true
14 and correct record of all such testimony adduced and oral
15 proceedings had and of the whole thereof.

16 I further advise you that as a matter of firm policy,
17 the Stenographic notes of this transcript will be destroyed two
18 years from the date appearing on this Certificate unless notice
19 is received otherwise from any party or counsel hereto on or
20 before said date;

21 Witness my hand and notarial seal at Vancouver,
22 Washington, this 17th day of January, 2000.

23
24
25

Julie C. Rabe, CSR
CSR No. RA-BE-*J-C316KR
Notary Public for Washington